



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310) Do NOT use for expedited rule making

CODE REVISER USE
ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 08, 2022

TIME: 9:23 AM

WSR 23-01-010

Agency: Department of Ecology AO #22-15

Subject of possible rule making: The rulemaking creates a new Chapter in the Washington Administrative Code, Chapter 173-408 WAC Landfill Methane Emissions. The purpose of this new chapter is to implement Reducing Methane Emissions from Landfills (Engrossed Second Substitute House Bill 1663, Chapter 179, Laws of 2022, codified as Chapter 70A.540 RCW).

Chapter 70A.540 RCW establishes various requirements for municipal solid waste (MSW) landfills. Ecology is considering rulemaking for the following:

Reporting Requirements:

- Establishing a method for landfills to claim exemption from the rule
- Waste in place reporting requirements
- Landfill gas heat input capacity calculation and reporting requirements
- Records maintenance and reporting requirements related to monitoring, testing, landfill operations, operation of the gas control device, gas collection system, and gas control system
- Reporting requirements for capping of landfill gas collection wells, removal or cessation of gas collection and control system equipment
- Landfill closure reporting requirements

Monitoring Requirements:

- Instantaneous and integrated surface monitoring requirements
- Methane concentration limit requirements determined by instantaneous or integrated surface emissions monitoring
- Exemptions for methane concentration limit exceedances due to activities defined in RCW 70A.540.050(3)
- Gas control system monitoring requirements
- Methane leak rate limits for treatment systems that process routed gas
- Wellhead gauge pressure monitoring requirements

Technology Requirements

- Gas collection and control system installation requirements
- Gas collection and control system efficiency requirements
- Gas collection and control system landfill gas leak limits
- Methane destruction efficiency requirements for flares and energy recovery control devices
- Requirements for gas collection and control systems that use an open flare
- Requirements for devices measuring gauge pressure
- Requirements for instruments used to measure methane
- Landfill gas control system equipment requirements
- Control device destruction efficiency calculation requirements
- Source testing requirements for any gas control device or devices

Other:

- Civil penalties for violation of the law and implementing rules
- Terms and definitions

Pursuant to RCW 70A.540.020(3), Ecology's rulemaking must be informed by landfill methane regulations adopted by the California Air Resources Board, the Oregon Environmental Quality Commission, and the United States Environmental Protection Agency.

This rulemaking applies to owners and operators of MSW landfills that received solid waste after January 1, 1992. This includes both active and closed MSW landfills (as defined in RCW 70A.540.010). Landfills that are exempt from these new requirements are:

- Landfills that receive only hazardous waste, or are currently regulated under the comprehensive environmental response, compensation, and liability act (42 U.S.C. chapter 103)
- Landfills that receive only inert waste or non-decomposable wastes

Statutes authorizing the agency to adopt rules on this subject: HB 1663 Reducing Methane Emissions from Landfills (Engrossed Second Substitute – E2SHB 1663); Chapter 70A.540 RCW Landfills—Methane Emissions

Reasons why rules on this subject may be needed and what they might accomplish: RCW 70A.540.020(3) requires that Ecology adopt rules to implement the law. Beginning January 1st of the year after Ecology adopts rules, or upon commencing operation of a newly installed gas collection and control system or modification of an existing system, whichever is later (not to exceed 24 months after adoption of this rulemaking), no location on a MSW landfill surface may exceed methane concentration limits as defined in RCW 70A.540.050.

According to the IPCC, reducing methane emissions is one of best strategies for mitigating the impacts of climate change in the near-term. Methane is a potent greenhouse gas (GHG) that has approximately 28 times more global warming potential than carbon dioxide (CO₂) when looked at over a 100-year period, and approximately 84 times the global warming potential of CO₂ over a 20-year period.

Landfills are a significant source of methane emissions in Washington. Ecology's most recent GHG inventory reported approximately 1.5 million tons of carbon dioxide equivalent emissions from solid waste management at landfills, which was approximately 2% of the state's total GHG emissions in 2018.

This legislation and rulemaking align with Washington State's 2030, 2040, and 2050 GHG reduction goals. Based on current science and emissions trends, Washington must achieve these limits to support the global effort to avoid the most significant impacts of climate change.

This rulemaking will implement more protective standards for acceptable methane emissions limits than are currently required under the Clean Air Act, creating an opportunity to capture more methane from MSW landfills across the state.

As a result of this rulemaking, Washington State will join California and Oregon in adopting more stringent standards for methane emissions from MSW landfills.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: RCW 70A.540.020(3) directs the Department of Ecology to adopt rules that are informed by landfill methane regulations adopted by the California Air Resources Board, the Oregon Environmental Quality Commission, and the United States Environmental Protection Agency. Ecology will consult with these agencies throughout the rule development process.

Local air pollution control authorities have the primary responsibility for administering both the state and federal Clean Air Act programs in counties which have elected to activate a local air authority or to form a multicounty air authority. Ecology will consult with these agencies throughout the rule development process.

Ecology writes minimum standards for solid waste handling, but local jurisdictional health departments are charged with oversight of solid waste facilities and may adopt more stringent standards than those set by Ecology. Ecology will consult with these agencies throughout the rule development process.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (Chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

Name: Bill Flagg
Address: Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: (564) 669-1385
Fax: N/A
TTY: For Washington Relay Service or TTY call 711 or 877-833-6341.
Email: bill.flagg@ecy.wa.gov
Web site: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-408>
Other: Sign up to receive email notices on this rulemaking:
https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY_265

(If necessary)

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

Additional comments: Interested parties can stay informed about the rulemaking and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with Tribal governments during each phase of rule development.

Date: 12/7/2022

Name: Kathy Taylor

Title: Air Quality Program Manager

Signature:

